

Reply to Office Action of 06/20/2005
Amendment Dated: September 12, 2005

Appl. No.: 10/708,800
Attorney Docket No.: H0005591

Amendments to the Drawings

The attached sheet of drawings included amendments to Figure 1. In particular, the text "DOT" pointed by the Examiner in point 2 on page 2 of the Outstanding Office Action mailed on 6/20/2005, is sought to be removed. The amendment is believed not to introduce new matter and its entry is respectfully requested.

Attachment: Replacement Sheet

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REMARKS

Claims 1-13 were examined in the outstanding office action mailed on 06/20/2005 (hereafter "Outstanding Office Action"). Applicants note with appreciation that claims 7 and 13 were indicated to be allowable, and claims 1-6 and 8-12 were rejected. The 5 information disclosure statement (IDS), the specification and drawings were objected to. In response, claims 3-5, 7, 9-11 and 13, drawings and the specification are sought to be amended, and claim 14 is sought to be added. The amendments and additions are believed not to introduce new matter and their entry is respectfully requested. Claims 1-14 are presented for consideration further in view of the following remarks.

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Information Disclosure Statement (IDS)

Applicant thanks the Examiner for considering and making of record the IDS filed in July 4 2004. The Examiner is also thanked for acknowledging the same in the Outstanding Office Action.

15 However, the Examiner objected to the information disclosure statement stating that the entry with respect to Li reference (i.e., ALAN LI, "AN 582 Resolution Enhancements of Digital Potentiometers with Multiple Devices") does not indicate a proper publication date. It is respectfully noted that the Applicants are merely required to disclose known information and the date of publication is not known to the Applicants.

20 The Examiner's attention is directed to MPEP § 2128, subsection entitled, "ELECTRONIC PUBLICATIONS AS PRIOR ART: *Date of Availability*". It is stated that there that, "... If the publication does not include a publication date (or retrieval date), it cannot be relied upon as prior art under 35 U.S.C. § 102(a) or (b), although it may be relied upon to provide evidence regarding the state of the art. Examiners may ask the Scientific and Technical Information Center to find the earliest publication date..."

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The date of retrieval by the Applicants of the Li reference is after the critical date of March 26, 2003. Applicants do not know the date the Li reference was first published.

The Examiner has further cited the Li reference on form PTO-892 and cited the date appearing on the reference as the publication date. The Examiner appears to have concluded
5 that "REV. A 12/19/01." appearing on the LI reference is the publication date. The record is unclear on the basis for such a conclusion. If it is based on the personal knowledge of the Examiner, an affidavit to that effect is respectfully requested. See, for example, 37 CFR § 1.104(d)(2) and MPEP 2144.04.C entitled, *"If Applicant challenges a Factual Assertion as Not Properly Officially Noticed or not Properly Based Upon Common Knowledge, the Examiner must Support the Finding with Adequate Evidence"*. (Emphasis Added).

In the absence of such an affidavit or other adequate evidence, it is respectfully requested that the Li Reference not be considered as prior art under the applicable practice noted above.

Specification

15 In point 4 on page number 3, the Examiner has objected to the specification noting problems with the Table following Paragraph 0055. The table is sought to be amended to correct the errors.

20 In point 4 on page number 3, the Examiner has objected to the specification noting that the claims recite "control block" and the specification recites "controller block 130". Claims 3-5, 7, and 9-11 are sought to be amended to change "control block" to "controller block", consistent with the specification.

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Applicants thank the Examiner for the detailed examination, and respectfully request withdrawal of the objections with respect to the specification.

Claim Rejections Under 35 U.S.C. § 102

In point number 6 page 4 of the Outstanding Office Action, claims 1, 2 and 8 were rejected under 35 U.S.C. § 102(b), as being anticipated by the Li reference. For reasons noted in the above section with respect to information disclosure statement (IDS), the record is not clear that the Li reference is proper prior art under the applicable law/practice. Withdrawal of the rejection is respectfully requested.

Claims 1-6 and 8-12 were rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent Application Publication (US 2004/0252750 A1) to Gruszecki *et al* (hereafter "Gruszecki") filed 6/12/03 and published 12/16/04.

Applicants swear behind Gruszecki as provided under 37 CFR § 1.131 entitled "Affidavit or Declaration of prior invention" by submitting a declaration (hereafter "declaration") according to the procedure further outlined in 37 CFR § 131(b) and MPEP § 715. As noted there, one of the ways to swear behind requires showing of reduction to practice of the invention prior to the effective date of the reference.

The effective date of the reference to be overcome is 6/12/03 (the filing date of Gruszecki). The appended declaration dated September 1, 2005 by the inventors, Mr. Joy P Prabhakaran and Jayaram B Srinivasan, establishes that the invention was reduced to practice on a day prior to 6/12/03. Withdrawal of the rejection is respectfully requested.

Allowable Subject Matter

Applicants again note with appreciation that dependent claims 7 and 13 were indicated to be allowable if written in independent form. Claims 7 and 13 have been amended to include

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the features of the base claims from which they respectively depend on. Accordingly currently amended claims 7 and 13 are believed to be in condition for allowance.

Conclusion

All the objections and rejections are thus believed to be overcome. The Examiner is
5 invited to telephone the undersigned representative at 707.356.4172 if it is believed that an interview might be useful for any reason.

Respectfully submitted,



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